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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/534,861

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Hans Brannstrom

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HARNESS, DICKEY & PIERCE, P.L.C.  
P.O. BOX 8910  
RESTON, VA 20195

EXAMINER

SELF, SHELLEY M

ART UNIT

PAPER NUMBER

3725

MAIL DATE

DELIVERY MODE

08/25/2009

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/534,861	<b>Applicant(s)</b> BRANNSTROM ET AL.	
	<b>Examiner</b> Shelley Self	<b>Art Unit</b> 3725	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 04 August 2009.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 21 May 2005 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All    b) ☐ Some \*    c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                     | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

## **DETAILED ACTION**

### ***Continued Examination Under 37 CFR 1.114***

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on August 4, 2009 has been entered.

### ***Drawings***

The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the fastening device (clms. 15-17) must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet"

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pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

***Claim Rejections - 35 USC § 112***

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claims 1-13 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention. Neither the originally filed written disclosure nor the drawings provide clear support for the recitation “an upper main structure” (clms. 1, 15). It is not clear whether this upper main structure is the disclosed surface layer, (2, 2’), core (3, 3’), or balance layer (4, 4’) all of the three or any combination thereof. Accordingly the claimed invention as presently presented is not fully enabled by the original disclosure.

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1-20 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as

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the invention. With regard to claim 1, the scope of the claim is not clear. For example the preamble states, "a floorboard", the claim further states, an upper main structure...edge portions of the upper main structure of the floorboards together define a joint plane. Examiner notes no second floorboard has been positively recited. Therefore it is unclear how the functional recitation, "for mechanically joining, vertically and horizontally, of the floorboard to the neighboring identical floor board is carried out. Furthermore, if the invention is in fact two floor boards how is it the floor boards are identical, a locking system...integrated with the floorboard for mechanical joining...of the floorboards exists, i.e. if the boards are identical, thus having the same locking system how can the locking system of one board integrate with the locking system of the second identical board to join the identical boards (clms. 1, 14, 15)? Examiner notes that if Applicant's attempt to claim that opposes parallel surfaces of a floorboard are different and that it is the locking system of one floorboard that mates to a corresponding locking system of another floorboard, no such recitation has been made. And clarification is required.

Additionally regarding claim 1, it is unclear how if it is the upper main structure of the floorboards that defines a joint plane (lines 4-6), how can the supporting layer extend beyond the joint plane? Similarly how is the resilient base extending beyond the joint plane?

Also regarding claims 1 and 13, if the floorboard comprises the locking system how is it the locking system is arranged along at least two parallel edges of the floorboard? Examiner notes this recitation results in ambiguity. As Applicant's attempt to draft a broad claim encompasses embodiments not disclosed in the original disclosure. For example this recitation encompasses the following embodiments: 1) wherein the locking system is along the upper main structure, 2) wherein the locking system is along the supporting layer 3) wherein the locking

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system is along the resilient base 4) wherein the locking system is along both the support layer and the resilient base and 5) wherein the locking system is along the upper structure, supporting layer and resilient base.

With regard to claim 17, is it the fastening device or the supporting layer that is arranged between "said floorboard and said resilient base"?

With regard to claim 19, the claim is ambiguous. Is it the resilient layer that is underside the floorboard, the support layer that is underside the resilient layer or vice versa, i.e. the supporting layer underside the floorboard, the resilient layer underside the supporting layer?

With regard to claim 20, are the locking systems arranged along at least two parallel edges of the floorboard mating corresponding systems or are the systems identical? How does the locking system allow for *mechanically joining...of the floorboard to a neighboring identical floorboard*?

Examiner notes the above listing of 35 U.S.C.112 rejections is not conclusive and Applicant is required to review all of the claims for compliance to 35 U.S.C. 112. Although the claims do not have a prior art rejection applied the claims as presently presented are not deemed allowable and Applicant is required to review all of the claims for clarity and ambiguity so as to facilitate clear understanding of the claimed invention, the scope of the protection sought and for proper application of the prior art.

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***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Shelley Self whose telephone number is 571-272-4524. The examiner can normally be reached on 8:30 - 5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Dana Ross can be reached on 571-272-4480. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Shelley Self/  
Primary Examiner, Art Unit 3725

SS  
August 23, 2009